

FILED
U.S. DISTRICT COURT
DISTRICT OF NEBRASKA

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OFFICE OF THE CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	8:05CV479
)	
v.)	JUDGMENT AND DECREE
)	OF FORECLOSURE
JAMES D. SCHILKE, et al.,)	AND ORDER OF SALE
)	BY CONSENT
Defendants.)	

Now on this 29th day of August, 2006, this cause came on for determination upon the Complaint filed herein by the Plaintiff, United States of America. The Plaintiff appears by and through its attorneys, Michael G. Heavican, United States Attorney for the District of Nebraska, and Robert L. Homan, Assistant United States Attorney for said District. The Defendants James D. Schilke a/k/a James Daniel Schilke, Larry Schilke, and Diann Schilke, appear by and through their attorney, Larry Baumann. Through their respective counsel, the parties have consented to the entry of this Judgment and Decree of Foreclosure and Order of Sale by Consent. The Defendant Holly Schilke, failed to answer or otherwise appear or plead to the allegations contained in the Complaint and said Defendant is in default in this action. The Defendant State of Nebraska, ex rel. Nebraska Department of Health and Human Service, Child Support Enforcement has filed a disclaimer in this action for the reason that said Defendant does

not claim an interest in the subject property. The Defendant State of Nebraska, ex rel. Nebraska Department of Revenue has filed a disclaimer in this action for the reason that said Defendant does not claim an interest in the subject property.

THEREFORE, the Court, having examined the record of these proceedings, and having been fully advised in the premises, finds:

That the Court has jurisdiction of these proceedings pursuant to Title 28, United States Code, § 1345;

That due and legal notice of the pendency of this action has been given;

And that the Court has acquired jurisdiction of all the parties.

AND this cause coming on further to be heard on the pleadings and the evidence and being submitted to the Court, on due consideration, the Court finds:

That each and all of the allegations of Plaintiff's Complaint are true;

That Plaintiff is entitled to a Decree of Foreclosure and Order of Sale as prayed;

That the premises herein described will sell to the best advantage in one entire tract, together with irrigation equipment located thereon.

That there is due and owing to the Plaintiff as of July 21, 2006, the principal sum of \$133,455.38, plus accrued interest in the amount of \$23,579.12, together with interest accruing at the rate of \$18.2816 per day from July 21, 2006, until the date of entry of this decree, together with interest at the legal rate thereafter, plus the costs of this action. Interest will accrue on said sums from and after the date of entry of this decree at

the legal rate of 5.07 % computed daily and compounded annually until paid in full.

The amount due Plaintiff as stated herein is the first lien on the following described real estate in Chase County, Nebraska, to-wit:

South Half (S ½) of Section Thirteen (13), Township Seven
(7) North, Range Forty (40) West of the Sixth (6th) P.M.,
Chase County, Nebraska.

and the following irrigation equipment:

<u>Quantity</u>	<u>Manufacturer</u>	<u>Kind</u>	<u>Size and Type</u>	<u>Serial or Model No.</u>
1	Zimmatic	Generation 2 Center Pivot	7T	L24933
1	US Electric	High Thrust Well Motor	60 HP	6234-50- V01U274R045M
1	Western Land Roller	Pump	8"	92818
1	Zimmatic	Generation 2 Center Pivot	7T	L26973
1	IH	Natural Gas Engine	V8 446 CID	125622
1	Western Land Roller	Pump		GR97C106
1	De'Ran	Gearhead	100 HP	B804023

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

That judgment should be and hereby is entered against the defendants James D.

Schilke a/k/a James Daniel Schilke, Larry Schilke, Diann Schilke, and Holly Schilke, and any and all other defendants who have not been dismissed from this action.

That the above and foregoing findings are hereby made a part of this decree and

order and by this reference incorporated herein;

That, if the costs as indicated below and the several amounts above found due and interest thereon be not paid within twenty (20) days herefrom, all equity of redemption in said premises be foreclosed and said premises sold as upon execution in one entire tract;

That the Plaintiff shall apply for and the Clerk of the United States District Court shall issue an Order of Sale;

That the United States Marshal for the District of Nebraska shall thereupon advertise and sell, according to law, the aforementioned property;

That, as upon execution, said United States Marshal shall report his proceedings under this Decree and Order to this Court and shall deposit the proceeds of the sale, if any, into the Registry of the Court;

That, upon confirmation of said sale, said Clerk shall apply the proceeds as follows:

First, to the payment of the costs of the Plaintiff, and to the United States Marshal for service of Summons and Complaint and execution of Order of Sale;

Second, to the payment of the amount found due the Plaintiff with interest thereupon according to law;

Third, to the payment of the costs of the United States Marshal for per diem and special requirements;

That said Clerk shall retain in the Registry of the Court any surplus from said sale until further order of the Court.

That the aforementioned costs will be determined, after confirmation of sale, pursuant to the procedures described in Rule 54.1 of the Local Rules of the United States District Court for the District of Nebraska.

And that, upon confirmation by the Court of the sale of the aforementioned real estate and irrigation equipment, the United States Marshal shall execute a deed to the purchaser(s); and the parties of this Decree and Order and all persons claiming under them are ordered to deliver possession of said real estate and irrigation equipment to such purchaser(s).

BY THE COURT:

A handwritten signature in black ink, appearing to read "Lyle E. Strom", is written over a horizontal line.

LYLE E. STROM
UNITED STATES DISTRICT JUDGE

Prepared and submitted by:

UNITED STATES OF AMERICA

By: MICHAEL G. HEAVICAN
United States Attorney
District of Nebraska

And: /s/ Robert L. Homan
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DEFENDANTS

James D. Schilke
JAMES D. SCHILKE

Larry Schilke
LARRY SCHILKE

Diann Schilke
DIANN SCHILKE

APPROVED AS TO FORM AND CONTENT:

JAMES D. SCHILKE, LARRY SCHILKE,
and DIANN SCHILKE, Defendants

By: /s/ Larry R. Baumann

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